

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BRANDON MCFADDEN,

Plaintiff,

- v -

9:09-CV-1415

SCOTT HERMAN, et al.,

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to the Report-Recommendation dated October 4, 2010 have been filed, and the time to do so has expired. Furthermore, after examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice. Accordingly, the Court adopts the Report-Recommendation for the reasons stated therein.

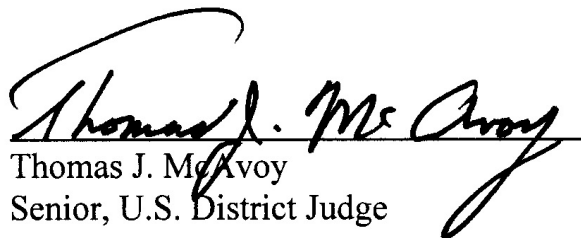
It is therefore,

ORDERED that Defendants' Motion pursuant to 28 U.S.C. § 1915(g), seeking to revoke Plaintiff's *in forma pauperis* status and conditionally dismiss the case (Dkt. No. 18)

is **DENIED**.

IT IS SO ORDERED

DATED: January 12, 2011


Thomas J. McAvoy
Senior, U.S. District Judge